CLAIM CONSTRUCTION CHART FOR CIVIL ACTION 6:12-CV-499-MHS-CMC FOR BLUE SPIKE ASSERTED U.S. PATENTS 8,214,175; 7,949,494; 7,660,700; AND 7,346,472

U.S. Patent 8,214,175 (Asserted Claims, 8, 11, 12, 13, 15, 16, 17) **Asserted Claims With Disputed Terms Disputed Claim** Plaintiff's Proposed **Defendants' Proposed Court's Construction** and Phrases **Terms and Phrases** Construction Construction 8. A system, comprising: Digital "a series of binary digits – Plain and ordinary meaning. nontransitory memory comprising a 1's and 0's" database for storing a plurality of digital reference signal abstracts; at least one processor; wherein said at least one processor is programmed or structured to generate a digital reference signal abstract from a digital reference signal such that said digital reference signal abstract is similar to said digital reference signal and reduced in size compared to said digital reference signal; and wherein said at least one processor is programmed to store said digital reference signal abstract in said database as one of said plurality of digital

reference signal abstracts;

wherein said digital **reference signal** is a digital representation of one of a plurality of different **versions** of a visual work and a multimedia work, and wherein said at least one processor is programmed or

atmostrated to comparate soid digital		<u> </u>		
structured to generate said digital reference signal abstract from said				
digital reference signal so that said digital				
reference signal comprises signal				
characteristic parameters that				
differentiate between said plurality of different versions of said visual work				
and said multimedia work.				
	ayany aignal	"a signal baing manitared or	"an unaampragad signal	
11. A system, comprising:	query signal	"a signal being monitored or	"an uncompressed signal	
nontransitory memory comprising a	2404 (1.11.20.20)	analyzed"	representing an entire work	
database for storing a plurality of digital	'494 (1,11,20,29)		to be analyzed"	
reference signal abstracts;	2700 (1.10.40.40)			
at least one processor;	'700 (1,10,40,49)			
wherein said at least one processor is	2470 (2.4.0.11)			
programmed or structured to generate a	'472 (3,4,8,11)			
digital reference signal abstract from a	reference signal	"a signal that is being	"an uncompressed signal	
digital reference signal such that said		referenced"	representing an entire	
digital reference signal abstract is	'494 (1,4,5,11,17,18,		work"	
similar to said digital reference signal	20,29)			
and reduced in size compared to said				
digital reference signal; and	'700 (1,6,7,8,10,40,			
wherein said at least one processor is	49)			
programmed to store said digital				
reference signal abstract in said database	'472 (3,4,8,11)			
as one of said plurality of digital	digital reference	[AGREED]	[AGREED]	Digital reference signal abstract
reference signal abstracts;	signal abstract			
wherein said at least one processor is		Parties agreed that no	Parties agreed that no	
programmed or structured to compare a		construction is required	construction is required	
digital query signal abstract to said		given the ordinary meaning	given the ordinary meaning	
plurality of <u>digital reference signal</u>		as understood by a person of	as understood by a person	
abstracts stored in said database to		ordinary skill in the	of ordinary skill in the	
generate a compare result.		respective art.	respective art.	

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	first digital reference signal abstract match recorder '175 (15)	No construction required	"an element used for counting, which corresponds to a particular Abstract"	
	signal characteristic parameters that differentiate between said plurality of different versions of said visual work and said multimedia work.	No construction required.	"parameters that characterize a signal that distinguish between multiple Versions of a single visual work and multimedia work"	
	similar to	No construction required.	Indefinite.	
	'175 (8,11,17)		To the extent the Court believes that this term is not indefinite, then Defendants propose: "looks or sounds the same	
			as"	
12. The system of claim 11, wherein said compare result indicates no match	Signal	[AGREED]	[AGREED]	
between said <u>digital query signal abstract</u> to said plurality of <u>digital reference signal</u> abstracts stored in said database.		Parties agreed that no construction is required given the ordinary meaning	Parties agreed that no construction is required giver the ordinary meaning as	
austracis storeu iii salu uatavase.		as understood by a person of ordinary skill in the	understood by a person of ordinary skill in the	

		T	, . ,	
		respective art.	respective art.	
13. The system of claim 11, wherein said	digital representation	[AGREED]	[AGREED]	
compare result indicates a match between	of one of a plurality			
said <u>digital query signal abstract</u> and a <u>first</u>	of different versions	Parties agreed that no	Parties agreed that no	
digital reference signal abstracts of said	of a visual work and a	1	construction is required	
plurality of	multimedia work	given the ordinary meaning	given the ordinary meaning	
digital reference signal abstracts stored in		as understood by a person of	as understood by a person	
said database.		ordinary skill in the	of ordinary skill in the	
		respective art.	respective art.	
15. The system of claim 11, wherein said	Abstract	[no construction necessary]	All Defendants (except	
memory further defines a first digital			Morpho Defendants)2	
reference signal abstract match	'175	<u>alternatively</u> : "summary" ¹		
recorder recording a number of times	(8,11,12,13,15,16,17)		Indefinite.	
said at least one processor determines a				
match between a digital query signal	'494		To the extent the Court	
abstract and first digital reference signal	(1,5,11,17,20,21,29)		finds this term definite, All	
abstract of said plurality of digital			· · · · · · · · · · · · · · · · · · ·	
reference signal abstracts stored in said	'700		Defendants (except Morpho	
database.	(1,6,7,10,11,40,49,50)		Defendants) propose: "A	
			data-reduced representation	
	'472 (3,4,8,11,12)		of a reference or query	
			signal that is the smallest amount of data that can	
			represent and differentiate	
			two signals for a given	
			predefined signal set and	
			that retains a perceptual	
			relationship with the	
			original signal"	
			No. 1 D.C. 1	
			Morpho Defendants	
			Indefinite.	

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¹ Plaintiff's first raised the alternative definition in its Reply brief. Defendants reserve their rights to address this issue at the claim construction hearing or move to strike this belated definition.

			To the extent the Court finds this term is definite, Morpho proposes: "a reduction that preserves an aesthetic quality of the original signal"	
16. The system of claim 12, wherein said	First digital reference	[AGREED]	[AGREED]	
at least one processor is programmed or	signal abstract			
structured to use an algorithm to		Parties agreed that no	Parties agreed that no	
generate said digital reference signal		construction is required	construction is required	
abstract from said digital reference		given the ordinary meaning	given the ordinary meaning	
signal; and wherein said at least one		as understood by a person of	as understood by a person	
processor is		ordinary skill in the	of ordinary skill in the	
programmed or structured to use said		respective art.	respective art.	
algorithm to generate said <u>digital query</u>				
signal abstract from said digital query				
signal.	D 1'	f. CDEED1	LA CREEDI	
17. A system, comprising:	Recording	[AGREED]	[AGREED]	
nontransitory memory comprising a		D 4: 1.1.4	D 4: 141.4	
database for storing a plurality of digital		Parties agreed that no	Parties agreed that no	
reference signal abstracts;		construction is required	construction is required	
at least one processor; wherein said at least		given the ordinary meaning	given the ordinary meaning	
one processor is programmed or structured to generate a digital reference signal		as understood by a person of ordinary skill in the	as understood by a person of ordinary skill in the	
abstract from a digital reference signal		respective art.	respective art.	
such that said digital reference signal	Query signal abstract	[AGREED]	[AGREED]	
abstract is similar to said digital	Query signal abstract			
reference signal and reduced in size		Parties agreed that no	Parties agreed that no	
compared to said digital reference signal;		construction is required	construction is required	
and wherein said at least one processor is		given the ordinary meaning	given the ordinary meaning	
programmed to store said digital		as understood by a person of	as understood by a person	
reference signal abstract in said database		ordinary skill in the	of ordinary skill in the	

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as one of said plurality of digital		respective art.	respective art.	
reference signal abstracts;	match	No construction required.	"an indistinguishable copy"	
wherein said at least one		1	a a garantery	
processor is programmed or structured to	'175 (12,13,15)			
apply at least one of psychoacoustic	'700 (1)			
model and a psycho-visual model to	'472 (3,4,8,11,12)			
generate said digital reference signal	Version(s) of	No construction required.	"multiple variations of a	
abstract from said digital reference	[a/the/said/"that one		particular Reference	
signal.	of said plurality of"]	Plaintiff objected to the	Signal"	
	reference signal[s]	Defendants' refusal to		
		construe the term "version."		
	'175 (8)	Dkt 1674-1.		
	'494 (1,11,29)			
	'700 (1,6)			
	reduced in size	No construction required.	"compressed"	
	'175 (8,11,17)			
	psycho-acoustic	No construction required.	"model that determines	
	model		acoustic parameters that are	
	,175 (17)		humanly-perceptible"	
	'175 (17) Psycho-visual model	No construction required.	"model that determines	
	rsycho-visual illouel	No construction required.	visual parameters that are	
	'175 (17)		humanly-perceptible"	
	A compare result	No construction required.	"data that indicates whether	
	A compare result	No construction required.	a Match between two	
	'175 (11)		Abstracts was found"	
	programmed or	No construction required.	Indefinite.	
	structured to use said	1 to construction required.	machine.	
	algorithm to generate			
	said digital query			
	signal abstract from			
	said digital query			

signal	1			
'175 ((16)			
	rammed or Number tured to use an	No construction required.	Indefinite.	
algorit	ithm to generate			
	ligital reference l abstract from			
said di	digital reference			
signal	1.			
'175 ((16)			

U.S. Patent 7,949,494 (Asserted Claims 1, 4, 5, 11, 17, 18, 20, 21, 22, 29)

Asserted Claims With Disputed Terms	Disputed Claim	Plaintiff's Proposed	Defendants' Proposed	Court's Construction
and Phrases	Terms and Phrases	Construction	Construction	
1. A system for <u>identifying</u> at least one	identifying	[AGREED]	[AGREED]	
reference signal comprising:				
a first input that receives at least one		Parties agreed that no	Parties agreed that no	
reference signal to be identified;		construction is required	construction is required	
a first processor that creates an abstract		given the ordinary meaning	given the ordinary meaning	
of each reference signal input to said first		as understood by a person of	as understood by a person	
processor through said first input wherein		ordinary skill in the	of ordinary skill in the	
the abstract comprises signal		respective art.	respective art.	
characteristic parameters configured to				
differentiate between versions of said				
reference signal;				
at least one reference database for				
storing at least one abstract; a receiver that				
receives at least one query signal;				
a second processor that creates an				

abstract of said query signal received by said receiver, based on the parameters; and a comparing device that compares the created query signal abstract to the reference signal abstracts in the at least one database, each abstract in the at least one reference database corresponding to a version of a reference signal, to determine whether the query signal abstract matches any of the stored at least one abstract in the at least one reference database.				
4. The system of claim 1, wherein the reference signals comprise at least one of images, audio, video, and combinations thereof.	To be identified	[AGREED] Parties agreed that no construction is required given the ordinary meaning as understood by a person of ordinary skill in the respective art.	[AGREED] Parties agreed that no construction is required given the ordinary meaning as understood by a person of ordinary skill in the respective art.	
	reference database '494 (1, 11, 21, 29) '700 (1)	"a database that contains references"	"a database containing Abstracts for a predefined set of Reference Signals"	
	'472 (3,8,11) reference signal	"a signal that is being	"an uncompressed signal	
	'494 (1,4,5,11,17,	referenced"	representing an entire work"	

	T .	,	
18,20,29)			
'700 (1,6,7,8,10, 40,49) '472 (3,4,8,11)			
signal characteristic parameters configured to differentiate between versions of said reference signal	No construction required given the length of this proposed phrase.	"parameters that characterize a signal that distinguish between multiple Versions of the same Reference Signal"	
a comparing device	[no construction necessary]	Means plus function.	
that compares	Alternatively: a comparator ²		
		Function: comparing	
	Not governed by §112¶6.	Structure: no structure or algorithm	
		To the extent the Court determines this term is not means-plus-function, Defendants propose this term is indefinite.	

² Defendants object to Blue Spike first proposing "comparator" as its construction in this joint statement.

	T	T	T	
			To the extent the Court finds this term is not indefinite, Defendants propose:	
			"A separate hardware component of the computerized system [that compares/ for comparing/ able to compare]".	
5. The system of claim 1,	Cognitive feature	[AGREED	[AGREED	
wherein the stored abstracts are	'494 (5)	CONSTRUCTION]	CONSTRUCTION]	
derived from one of a cognitive feature or	(3)	CONSTRUCTION	CONSTRUCTION	
a perceptible characteristic of the		"a feature that is understood	"a feature that is understood	
associated reference signals.		by a person"	by a person"	
11. A system for analyzing and identifying	Perceptible	[AGREED	[AGREED	
at least one reference signal, comprising:	characteristic	CONSTRUCTION]	CONSTRUCTION]	
a first input for receiving at least one	Characteristic	Constituentially	Constituent	
reference signal to be identified,	'700 (8)	"characteristic perceived by	"characteristic perceived	
a first processor for creating an	'494 (5,18)	a person"	by a person"	
abstract of each reference signal received	., (6,10)	w person		
based on perceptual characteristics				
representative of parameters to				
differentiate between versions of the				
reference signal;				
a reference database for storing				
abstracts of each reference signal				
received in a database;				
a second input for receiving at least one				

query signal to be identified,				
a second processor for creating an				
abstract of the received query signal				
based on the parameters; and				
a comparing device for comparing an				
abstract of said received query signal to				
the abstracts stored in the database to				
determine if the abstract of said received				
query signal is related to any of the				
stored abstracts.				
17. The system of claim 11, wherein at	Perceptual quality	[AGREED	[AGREED	
least one abstract comprises data		CONSTRUCTION]	CONSTRUCTION]	
describing a portion of the	'700 (8)	_	,	
characteristics of its associated	'494 (18)	"quality perceived by a	"quality perceived by a	
reference signal.		person"	person"	
8			1	
	perceptual	No construction required.	"Perceptual characteristics,	
	characteristics	_	which represent	
	representative of		parameters, that distinguish	
	parameters to		multiple Versions of the	
	differentiate between		same Reference Signal"	
	versions of the			
	reference signal			
	'494 (11)			
	'700 (40)			
	related to	No construction required.	"Matches"	
	'494 (11)			
	'700 (40)			
	data describing a	No construction required.	Indefinite.	
	portion of the	_		
	characteristics of its		To the extent the Court	

associated reference signal '700 (7) '494 (17)		believes that this term is not indefinite, then Defendants propose: "Information describing less than all of the signal characteristic parameters used to create the Abstract for its associated Reference Signal"	
a comparing device for comparing	[no construction necessary] Alternatively: a comparator ³	Means plus function. Function: comparing	
		Structure: no structure or algorithm	
	Not governed by §112¶6.	To the extent the Court determines this term is not means-plus-function, Defendants propose this term is indefinite.	
		To the extent the Court finds this term is not indefinite, Defendants propose:	

³ Defendants object to Blue Spike first proposing "comparator" as its construction in this joint statement.

			"A separate hardware component of the computerized system [that compares/ for comparing/ able to compare]".
18. The system of claim 17, wherein the characteristics of the	Cognitive characteristic	[AGREED CONSTRUCTION]	[AGREED CONSTRUCTION]
reference signal being described comprise at least one of a perceptible characteristic, a cognitive characteristic, a subjective characteristic,	'494 (18) '700 (8)	"characteristic understood by a person"	"characteristic understood by a person"
a perceptual quality, a recognizable characteristic or combinations thereof.	recognizable characteristic '494 (18)	No construction required.	"characteristic visually or aurally perceived by a person"
	'700 (8) Subjective characteristic	[AGREED CONSTRUCTION]	[AGREED CONSTRUCTION]
	('700, 8) ('494, 18)	"characteristic perceived differently by different people"	"characteristic perceived differently by different people"
20. The system of claim 11, wherein the system further comprises a security controller for applying a			
cryptographic protocol to the abstract of said reference signal, said query signal, or	security controller that controls access to a secured area	No construction required.	Indefinite. To the extent the Court

	1		Ta a	
both said reference signal and said query signal.	'494 (20)		believes that this term is not indefinite, then Defendants propose:	
			Detenuants propose.	
			"a hardware device that	
			prevents unauthorized	
			access"	
	cryptographic	No construction required.	"An agreed upon procedure	
	protocol		for transforming data in	
			order to secure it."	
	'494 (20, 21)			
	(,)			
	'700 (10, 11, 49, 50)			
21. The system of claim 20,	The system of claim	No construction required.	Indefinite.	
wherein the cryptographic protocol is				
one of at least a <u>hash</u> or <u>digital</u>	cryptographic protocol is one of at			
signature and further comprising storing the hashed abstract and/or	least a hash or digital			
digitally signed abstract in the reference				
database.	comprising storing			
	the hashed abstract			
	and/or digitally			
	signed abstract in the			
	reference database.			
	'494 (21)			
	'700 (11,50)			
	() - /			
	hash	"A mathematical function	"A mathematical transform	
		that maps a bit string."	that maps a bit string of	
	'494 (21)		arbitrary length to a fixed	
	'700 (11,50)		length bit string to achieve	

			uniqueness"	
	Digital signature	No construction required.	Indefinite.	
		_		
	'494 (21)			
	'700 (11,50)		To the extent the Court	
			believes that this term is	
			not indefinite, then	
			Defendants propose:	
			"the result of a	
			cryptographic	
			transformation of data that,	
			when applied to an	
			Abstract, provides a	
			mechanism for verifying	
			origin authentication, data	
			integrity and signatory	
	1 1 1 1	LA CREED!	non-repudiation"	
	hashed abstract	[AGREED]	[AGREED]	
	'494 (21)	"data that results from	"data that results from	
	'700 (11,50)	performing a Hash on an	performing a Hash on an	
		Abstract"	Abstract"	
22. The system of claim 11, further	The system of claim	No construction required.	Indefinite.	
comprising a transmitter for	11, further			
distributing at least one signal based on	comprising a			
the comparison step.	transmitter for			
	distributing at least			
	one signal based on			
	the comparison step.			
	'494 (22)			
29. A system for determining whether a	Signal characteristic	No construction required.	"parameters that	